EXHIBIT 1

Senate Bill No. 1078

CHAPTER 516

An act to add Sections 387, 390.1, and 399.25 to, and to add Article 16 (commencing with Section 399.11) to Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to renewable energy.

[Approved by Governor September 12, 2002. Filed with Secretary of State September 12, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1078, Sher. Renewable energy: California Renewables Portfolio Standard Program.

(1) Under the Public Utilities Act, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations, and authorizes the commission to establish just and reasonable rates and charges. The act requires retail suppliers of electric services to disclose sources of electrical generation and requires that those retail suppliers report information to the State Energy Resources Conservation and Development Commission (Energy Commission).

This bill would establish the California Renewables Portfolio Standard Program. The program would require that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard).

The bill would require the PUC to implement the renewables portfolio standard for electrical corporations, if funds are made available as described. Each electrical corporation would be required to increase its total procurement of eligible renewable energy resources by at least 1% per year so that 20% of its retail sales are procured from eligible renewable energy resources. If an electrical corporation fails to procure sufficient eligible renewable energy resources in a given year to meet an annual target, the electrical corporation would be required to procure additional eligible renewable resources in subsequent years to compensate for the shortfall, if funds are made available as described. An electrical corporation with at least 20% of retail sales procured from eligible renewable energy resources in any year would not be required to increase its procurement in the following year.

This bill would require the PUC to direct electrical corporations to prepare within 90 days of being deemed creditworthy, and to review and update as necessary, renewable energy procurement plans that are sufficient to satisfy its obligations under the renewables portfolio standard. The PUC would be required to adopt rules, within 6 months of the effective date of these provisions, for electrical corporations establishing a process for determining market prices of electricity from renewable generators pursuant to specified criteria, a process for rank ordering and selection of least-cost and best-fit renewable resources to fulfill program obligations, flexible rules for compliance that permit electrical corporations to apply excess procurement in one year to subsequent years, or inadequate procurement in one year to the following 3 years, and standard terms and conditions to be used by electrical corporations in contracting with renewable electricity generators. The PUC would be required to review and accept, modify, or reject each electrical corporation's renewable procurement plan 90 days prior to the commencement of renewable procurement by the electrical corporation. The PUC would be required to review and accept, modify, or reject renewable solicitations by electrical corporations and proposed contracts by electrical corporations with renewable electricity generators. The PUC would be required to allow an electrical corporation to recover, in rates, electricity procurement and administrative costs associated with long-term contracts reasonably incurred consistent with a renewable energy procurement plan approved by the PUC.

Because a violation of the Public Utilities Act or an order of the PUC is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.

The bill would require the Energy Commission to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, and to allocate and award supplemental energy payments to cover above-market costs of renewable energy.

(2) Existing law, the Warren-Alquist State Energy Resources Conservation and Development Act, requires the Energy Commission to certify sufficient sites and related facilities that are required to provide a supply of electricity sufficient to accommodate projected demand for power statewide. Under existing law, the PUC must grant a certificate of public convenience and necessity, upon application by a public utility, for the construction of a new transmission facility or electric transmission line within the state. As a basis for granting a certificate of public convenience and necessity, the PUC is required to give consideration to community values, recreational and park areas,

historical and aesthetic values, and influence on the environment. No certificate of public convenience and necessity may be granted for an electrical transmission line without certification by the Energy Commission, and the decision by the Energy Commission is conclusive as to all matters determined thereby and take the place of consideration by the PUC.

This bill would provide that an application of an electrical corporation for a certificate for the construction of new transmission facilities, that are necessary to facilitate achievement of the renewable power goals, shall be deemed to be necessary by the PUC in determining to issue a certificate of public necessity and convenience. The bill would require the PUC to take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission are fully reflected in any retail rates established by the commission.

(3) Existing law requires each local publicly owned utility to establish a nonbypassable usage based charge to fund investments in specified public purpose programs, including cost-effective demand-side management services to promote energy efficiency and energy conservation, investment in renewable energy resources and technologies, and services for low-income electricity consumers. The charge is required to be not less than the lowest expenditure of the 3 largest electrical corporations in California based on a percentage of revenue.

This bill would require the governing board of a local publicly owned electric utility to be responsible for implementing and enforcing a renewables portfolio standard, as described, and to annually report to its customers upon expenditures of public goods funds on public purpose programs, thereby imposing a state-mandated local program. Because a violation of this provision would be a crime, this bill would also impose a state-mandated local program by creating a new crime.

(4) Existing law provides that subject to applicable contractual terms, energy prices paid to nonutility power generators by a public utility electrical corporation based on the commission's "short run avoided cost energy methodology" are required to be determined by specified law.

This bill would authorize any nonutility power generator using renewable fuels that entered into a contract with an electrical corporation specifying fixed energy prices for output prior to December 31, 2001, to elect an additional 5 years of fixed energy payments at a level to be determined by the PUC.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 387 is added to the Public Utilities Code, to read:

387. (a) Each governing body of a local publicly owned electric utility, as defined in Section 9604, shall be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

(b) Each local publicly owned electric utility shall report, on an annual basis, to its customers, the following:

(1) Expenditures of public goods funds collected pursuant to Section 385 for renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.

(2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels considered eligible renewable energy resources as defined by Section 399.12.

SEC. 2. Section 390.1 is added to the Public Utilities Code, to read:

390.1. Any nonutility power generator using renewable fuels that has entered into a contract with an electrical corporation prior to December 31, 2001, specifying fixed energy prices for five years of output may negotiate a contract for an additional five years of fixed energy payments upon expiration of the initial five-year term, at a price to be determined by the commission.

SEC. 3. Article 16 (commencing with Section 399.11) is added to Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 16. California Renewables Portfolio Standard Program

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of 20 percent renewable energy for the State of California and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, it is the intent of the Legislature that the California Public Utilities Commission and the State Energy Resources Conservation and Development Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of renewable energy resources may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Program administered by the State Energy Resources Conservation and Development Commission and established pursuant to Sections 383.5 and 445.

399.12. For purposes of this article, the following terms have the following meanings:

(a) (1) "Eligible renewable energy resource" means an electric generating facility that is one of the following:

(1) The facility meets the definition of "in-state renewable electricity generation technology" in Section 383.5.

(2) A geothermal generation facility originally commencing operation prior to September 26, 1996, shall be eligible for purposes of adjusting a retail seller's baseline quantity of eligible renewable energy resources except for output certified as incremental geothermal production by the Energy Commission, provided that the incremental output was not sold to an electrical corporation under contract entered into prior to September 26, 1996. For each facility seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(3) The output of a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of the date of enactment of this article shall be eligible only for purposes of establishing the baseline of an electrical corporation pursuant to paragraph (3) of subdivision (a) of Section 399.15. A new hydroelectric facility is not an eligible renewable energy resource if it will require a

new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(4) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. Output from such facilities shall be eligible only for the purpose of adjusting a retail seller's baseline quantity of eligible renewable energy resources.

(b) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3 subject to the following conditions:

(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric service provider and a retail customer expires. Nothing on this subdivision may require an electric service provider to disclose the terms of the contract to the commission.

(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing power consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electrical utility as defined in subdivision (d) of Section 9604.

(c) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to Sections 399.13 and 399.15.

399.13. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (a) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that renewable energy output is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, and for verifying retail product claims in this state or any other state. In establishing the guidelines governing this system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Allocate and award supplemental energy payments pursuant to Section 383.5 to eligible renewable energy resources to cover above-market costs of renewable energy.

399.14. (a) The commission shall direct each electrical corporation to prepare renewable energy procurement plans as described in paragraph (3) to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(1) The commission shall not require an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until it is deemed creditworthy by the commission upon it having attained an investment grade rating as determined by at least two major rating agencies. Within 90 days of being deemed creditworthy, an electrical corporation shall conduct solicitations to implement a renewable energy procurement plan. The creditworthiness determination required by this paragraph shall apply only to the requirements established pursuant to this article. The requirements established for an electrical corporation pursuant to Section 454.5 shall be governed by that section.

(2) Not later than six months after the effective date of this section, the commission shall adopt, by rule, for all electrical corporations, all of the following:

(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources. In order to ensure that the market price established by the commission pursuant to subdivision (c) of Section 399.15 does not influence the amount of a bid submitted through the competitive solicitation in a manner that would increase the amount ratepayers are obligated to pay for renewable energy, and in order to ensure that the bid price does not influence the establishment of the market price, the electrical corporation shall not transmit or share the results of any competitive solicitation for eligible renewable energy resources until the commission has established market prices pursuant to subdivision (c) of Section 399.15.

(B) A process that provides criteria for the rank ordering and selection of least-cost and best-fit renewable resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources.

(C) Flexible rules for compliance including, but not limited to, permitting electrical corporations to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years.

(D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators.

(3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include, but is not limited to, all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of renewable generation resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Provisions for employing available compliance flexibility mechanisms established by the commission.

(C) A bid solicitation setting forth the need for renewable generation of each deliverability characteristic, required online dates, and locational preferences, if any.

(4) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years in duration, unless the commission approves of a contract of shorter duration.

(5) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(b) The commission shall review and accept, modify, or reject each electrical corporation's renewable procurement plan 90 days prior to the commencement of renewable procurement pursuant to this article by the electrical corporation.

(c) The commission shall review the results of a renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition amongst the bidders, the commission shall direct the electrical corporation to renegotiate such contracts or conduct a new solicitation.

(d) If an electrical corporation fails to comply with a commission order adopting a renewable procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance.

(e) Upon application by an electrical corporation, the commission may authorize another entity to enter into contracts on behalf of customers of the electrical corporation for deliveries of eligible renewable energy resources to satisfy the annual portfolio standard obligations, subject to similar terms and conditions applicable to an electrical corporation. The commission shall allow the procurement entity to recover reasonable costs through retail rates subject to review and approval.

(f) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable resources, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates.

(g) For purposes of this article, "procure" means that a utility may acquire the renewable output of electric generation facilities that it owns or for which it has contracted. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale

transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Section 383.5, including, but not limited to, work performed to qualify, receive, or maintain production incentives or supplemental energy payments is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all electrical corporations to procure a minimum quantity of output from eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, if sufficient funds are made available pursuant to paragraph (2), and Sections 399.6 and 383.5 to cover the above-market costs of eligible renewables, and subject to all of the following:

(1) An electric corporation shall not be required to enter into long-term contracts with eligible renewable energy resources that exceed the market prices established pursuant to subdivision (c) of this section.

(2) The Energy Commission shall provide supplemental energy payments from funds in the New Renewable Resources Account in the Renewable Resource Trust Fund to eligible renewable energy resources pursuant to Section 383.5,, consistent with this article, for above-market costs. Indirect costs associated with the purchase of eligible renewable energy resources, such as imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades shall not be eligible for supplemental energy payments, but shall be recoverable by an electrical corporation in rates, as authorized by the commission.

(3) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each electrical corporation based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and, to the extent applicable, adjusted going forward pursuant to subdivision (a) of Section 399.12.

(b) The commission shall implement annual procurement targets for each electrical corporation as follows:

(1) Beginning on January 1, 2003, each electrical corporation shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from

eligible renewable energy resources no later than December 31, 2017. An electrical corporation with 20 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of such resources in the following year.

(2) Only for purposes of establishing these targets, the commission shall include all power sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

(3) In the event that an electrical corporation fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the electrical corporation shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall if sufficient funds are made available pursuant to paragraph (2), and Sections 399.6 and 383.5 to cover the above-market costs of eligible renewables.

(4) If supplemental energy payments from the Energy Commission, in combination with the market prices approved by the commission, are insufficient to cover the above-market costs of eligible renewable energy resources, the commission shall allow an electrical corporation to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured with available supplemental energy payments.

(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with renewable generators, in consideration of the following:

(1) The long-term market price of electricity for fixed price contracts, determined pursuant to the electrical corporation's general procurement activities as authorized by the commission.

(2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

(3) The value of different products including baseload, peaking, and as-available output.

(d) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

(e) The commission shall consult with the Energy Commission in calculating market prices under subdivision (c) and establishing other renewables portfolio standard policies.

SEC. 4. Section 399.25 is added to the Public Utilities Code, immediately following Section 399.2, to read:

399.25. (a) Notwithstanding any other provision in Sections 1001 to 1013, inclusive, an application of an electrical corporation for a certificate authorizing the construction of new transmission facilities

shall be deemed to be necessary to the provision of electric service for purposes of any determination made under Section 1003 if the commission finds that the new facility is necessary to facilitate achievement of the renewable power goals established in Article 16 (commencing with Section 399.11).

(b) With respect to a transmission facility described in subdivision (a), the commission shall take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission are fully reflected in any retail rates established by the commission. These actions shall include, but are not limited to:

(1) Making findings, where supported by an evidentiary record, that those transmission facilities provide benefit to the transmission network and are necessary to facilitate the achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11).

(2) Directing the utility to which the generator will be interconnected, where the direction is not preempted by federal law, to seek the recovery through general transmission rates of the costs associated with the transmission facilities.

(3) Asserting the positions described in paragraphs (1) and (2) to the Federal Energy Regulatory Commission in appropriate proceedings.

(4) Allowing recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of the transmission facilities that are not approved for recovery in transmission rates by the Federal Energy Regulatory Commission after the commission determines that the costs were prudently incurred in accordance with subdivision (a) of Section 454.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement

does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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EXHIBIT 2

Senate Bill No. 107

CHAPTER 464

An act to amend Sections 25620.1, 25740, 25741, 25742, 25743, 25746, and 25751 of, to add Sections 25470.5 and 25744.5 to, and to repeal Sections 25745 and 25749 of, the Public Resources Code, and to amend Sections 387, 399.11, 399.12, 399.13, 399.14, and 399.15 of, to add Article 9 (commencing with Section 635) to Chapter 3 of Part 1 of Division 1 of, to add and repeal Section 2854 of, and to repeal and add Section 399.16 of, the Public Utilities Code, relating to energy.

[Approved by Governor September 26, 2006. Filed with Secretary of State September 26, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 107, Simitian. Renewable energy: Public Interest Energy Research, Demonstration, and Development Program.

(1) Existing law expresses the intent of the Legislature, in establishing the Renewable Energy Resources Program, to increase the amount of renewable electricity generated per year, so that it equals at least 17% of the total electricity generated for consumption in California per year by 2006.

This bill would revise and recast that intent language so that the amount of electricity generated per year from eligible renewable energy resources is increased to an amount that equals at least 20% of the total electricity sold to retail customers in California per year by December 31, 2010. The bill would make conforming changes related to this provision.

(2) The Public Utilities Act imposes various duties and responsibilities on the California Public Utilities Commission (CPUC) with respect to the purchase of electricity and requires the CPUC to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that a retail seller of electricity, including electrical corporations, community choice aggregators, and electric service providers, but not including local publicly owned electric utilities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year (renewables portfolio standard). The renewables portfolio standard requires each electrical corporation to increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017.

This bill would instead require that each retail seller, as defined, increase its total procurement of eligible renewable energy resources by at least an additional 1% of retail sales per year so that 20% of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission) to certify eligible renewable energy resources, to design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, and to allocate and award supplemental energy payments to cover above-market costs of renewable energy.

This bill would require the Energy Commission, if it provides funding for a regional accounting system to verify compliance with the renewables portfolio standard by retail sellers, to recover all costs from user fees. The bill would require the Energy Commission to develop tracking, accounting, verification, and enforcement mechanisms for renewable energy credits, as defined. The bill would specify that facilities located out of state shall not be eligible for supplemental energy payments unless certain requirements are met, and would limit awards to those facilities to 10% of funds available. The bill would require that deliveries of electricity from an eligible renewable energy resource under any electricity purchase agreement with a retail seller executed before January 1, 2002, be tracked and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller. The bill would require that electricity generated pursuant to a prescribed federal act and pursuant to a purchase contract executed on or after January 1, 2002, count towards the renewables portfolio standard requirements of the retail seller. The bill would provide for the tracking of deliveries under these purchase contracts through a prescribed accounting system. The bill would make other technical and conforming changes.

Existing law provides that if supplemental energy payments from the Energy Commission, in combination with the market prices approved by the CPUC, are insufficient to cover any above-market costs of eligible renewable energy resources, the CPUC is required to allow a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured with available supplemental energy payments.

This bill would require the CPUC to adopt flexible rules allowing a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be delivered by existing transmission if the CPUC finds that the retail seller has undertaken all reasonable efforts to utilize flexible delivery points, ensure the availability of any needed transmission capacity, and, if an electric corporation, to construct needed transmission facilities.

(4) The Public Utilities Act permits the Energy Commission to consider an electric generating facility that is located outside the state to be an eligible renewable energy resource if it meets specific criteria.

This bill would delete that provision within the act and would amend the definition of an "in-state renewable electricity generation facility" within related provisions prescribing duties of the Energy Commission to encompass certain facilities located outside the state.

(5) Under existing law, the governing board of a local publicly owned electric utility is responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable energy resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement. Existing law requires the governing board of a local publicly owned electric utility to annually report certain information relative to renewable energy resources to its customers.

This bill would additionally require that the governing board of a local publicly owned electric utility annually report the utility's status in implementing a renewables portfolio standard and progress toward attaining the standard to its customers and to report to the Energy Commission the information that the governing board is required to annually report to their customers. These additional reporting requirements would thereby impose a state-mandated local program.

(6) Under the Public Utilities Act, the CPUC requires electrical corporations to identify a separate rate component to fund programs that enhance system reliability and provide in-state benefits. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. The funds are collected to support cost-effective energy efficiency and conservation activities, public interest research and development not adequately provided by competitive and regulated markets, and renewable energy resources (renewable energy public goods charge). Existing law requires the Energy Commission to transfer funds collected from the renewable energy public goods charge into the Renewable Resource Trust Fund and establishes certain accounts in the fund to carry out certain renewable energy purposes.

This bill would require the Energy Commission, in carrying out the renewable energy resources program, to optimize public investment and ensure that the most cost-effective and efficient investments in renewable energy resources are vigorously pursued with a long-term goal of achieving a fully competitive and self-sustaining supply of electricity generated from renewable sources. The bill would state that a near term objective of the program is to increase the quantity of electricity generated by in-state renewable electricity generation facilities, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents with an additional objective to identify and support emerging renewable energy technologies that have the greatest near-term commercial promise and that merit targeted assistance. The bill would make legislative recommendations for allocations among specified renewable energy resources.

(7) Under existing law, 51.5% of the money collected as part of the renewable energy public goods charge is required to be used for programs

designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide. Existing law also provides that any of those funds used for new in-state renewable electricity generation facilities are required to be expended in accordance with a specified report of the Energy Commission to the Legislature, subject to certain requirements, including the awarding of supplemental energy payments.

This bill would require that these funds be awarded only to a project that is selected by an electrical corporation pursuant to a competitive solicitation procedure found by the CPUC to comply with the California Renewables Portfolio Standard Program and that the project participant has entered into an electricity purchase agreement resulting from that solicitation that is approved by the CPUC. The bill would authorize certain projects supplying electricity to retail sellers, as defined, to the extent the retail seller is servicing load that is within the distribution area of an electrical corporation and subject to the renewable energy public goods charge, to receive supplemental energy payments under certain circumstances. The bill would prohibit the Energy Commission from awarding supplemental energy payments for the sale or purchase of renewable energy credits or to service load that is not subject to the renewable energy public goods charge. The bill would incorporate the modified definition of an "in-state renewable electricity generation facility."

(8) Existing law requires that 20% of the funds collected as part of the renewable energy public goods charge be used for a program designed to improve the competitiveness of existing in-state renewable electricity generation facilities and to secure for the state specified benefits.

This bill would reduce that amount to 10% of the funds collected and specify conditions under which certain facilities would be eligible for funding.

(9) Existing law requires that 17½% of the funds collected as part of the renewable energy public goods charge be deposited into the Emerging Renewables Resources Account, and be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

Existing law requires the Energy Commission, by January 1, 2008, and in consultation with the CPUC, local publicly owned electric utilities, and interested members of the public, to establish and thereafter revise eligibility criteria for solar energy systems, as defined, and to establish conditions for ratepayer funded incentives that are applicable to the California Solar Initiative, as defined.

This bill would require that the Energy Commission, in allocating and using moneys in the Emerging Renewables Resources Account and the Renewable Resource Trust Fund to fund photovoltaic and solar thermal electric technologies, to utilize the eligibility criteria and conditions for solar energy systems that are applicable to the California Solar Initiative.

(10) Existing law establishes the Customer-Credit Renewable Resource Purchases Account in the Renewable Resource Trust Fund, requires that 10% of the money collected under the renewable energy public goods charge be deposited into the account and be used for credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities.

This bill would delete these provisions.

(11) Existing law requires the use of standard terms and conditions by all electrical corporations in contracting for eligible renewable energy resources.

This bill would require that those terms and conditions include the requirement that, no later than 6 months after the CPUC's approval of an electricity purchase agreement, the following information about the agreement be disclosed by the CPUC: party names, resource type, project location, and project capacity.

(12) This bill would require an electrical corporation or local publicly owned electric utility to adopt certain strategies in a long-term plan or a procurement plan, as applicable, to achieve efficiency in the use of fossil fuels and to address carbon emissions, as specified.

(13) This bill would delete certain obsolete and duplicative provisions and make technical and conforming changes.

(14) This bill would require the CPUC, in consultation with the Energy Commission, to review the impact of allowing supplemental energy payments to be applied toward contracts for the procurement of eligible renewable energy resources that are of a duration of less than 10 years, and, by June 30, 2007, to report to the Legislature with the results of the review, including certain matters. The bill would require the PUC to report to the Legislature, on or before January 1, 2008, on the feasibility, desirability, and design of performance-based incentives for solar energy systems of less than 30 kilowatts.

(15) Existing law establishes the Public Interest Research, Development, and Demonstration Fund in the State Treasury, and provides that the money collected by the public goods charge to support public interest research and development not adequately provided by competitive and regulated markets, be deposited in the fund for use by the Energy Commission to develop, implement, and administer the Public Interest Research, Development, and Demonstration Program to develop technologies which will improve environmental quality, enhance electrical system reliability, increase efficiency of energy-using technologies, lower electrical system costs, or provide other tangible benefits. The Energy Commission is required to adopt a portfolio approach for the program that accomplishes specified objectives.

This bill would state that the general goal of the program is to develop, and help bring to market, energy technologies that provide increased environmental benefits, greater system reliability, and lower system costs, and that provide tangible benefits to electrical utility customers through

specified investments. The bill would require that the portfolio approach used by the Energy Commission additionally ensure an open project selection process, encourage the awarding of research funding for a diverse type of research as well as a diverse award recipient base, equally considers research proposals from the public and private sectors, and be coordinated with other related research programs.

(16) Existing law makes a violation of the Public Utilities Act or a violation of an order of the CPUC a crime.

Certain of the provisions of this bill are a part of the act and an order of the CPUC would be required to implement these provisions. Because a violation of the provisions of the bill that are part of the act or of any CPUC order implementing these provisions would be a crime, this bill would impose a state-mandated local program by creating new crimes.

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 25620.1 of the Public Resources Code is amended to read:

25620.1. (a) The commission shall develop, implement, and administer the Public Interest Research, Development, and Demonstration Program that is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the commission, are not adequately provided for by competitive and regulated markets. The commission shall administer the program consistent with the policies of this chapter.

(b) The general goal of the program is to develop, and help bring to market, energy technologies that provide increased environmental benefits, greater system reliability, and lower system costs, and that provide tangible benefits to electrical utility customers through investments in the following:

(1) Advanced electricity and natural gas transportation technologies that reduce air pollution and emissions of greenhouse gases beyond applicable standards, and that benefit electricity and natural gas ratepayers.

(2) Increased energy efficiency in buildings, appliances, lighting, and other applications beyond applicable standards, and that benefit electrical utility customers.

(3) Advanced electricity generation technologies that exceed applicable standards to increase reductions in emissions of greenhouse gases from electricity generation, and that benefit electric utility customers.

(4) Advanced electricity technologies that reduce or eliminate consumption of water or other finite resources, increase use of renewable energy resources, or improve transmission or distribution of electricity generated from renewable energy resources.

(c) To achieve the goals established in subdivision (b), the commission shall adopt a portfolio approach for the program that does all of the following:

(1) Effectively balances the risks, benefits, and time horizons for various activities and investments that will provide tangible energy or environmental benefits for California electricity customers.

(2) Emphasizes innovative energy supply and end-use technologies, focusing on their reliability, affordability, and environmental attributes.

(3) Includes projects that have the potential to enhance transmission and distribution capabilities.

(4) Includes projects that have the potential to enhance the reliability, peaking power, and storage capabilities of renewable energy.

(5) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 399.8 of the Public Utilities Code.

(6) Addresses key technical and scientific barriers.

(7) Demonstrates a balance between short-term, mid-term, and long-term potential.

(8) Ensures that prior, current, and future research not be unnecessarily duplicated.

(9) Provides for the future market utilization of projects funded through the program.

(10) Ensures an open project selection process and encourages the awarding of research funding for a diverse type of research as well as a diverse award recipient base and equally considers research proposals from the public and private sectors.

(11) Coordinates with other related research programs.

(d) The term "award," as used in this chapter, may include, but is not limited to, contracts, grants, interagency agreements, loans, and other financial agreements designed to fund public interest research, demonstration, and development projects or programs.

SEC. 2. Section 25740 of the Public Resources Code is amended to read:

25740. It is the intent of the Legislature in establishing this program, to increase the amount of electricity generated from eligible renewable energy resources per year, so that it equals at least 20 percent of total retail sales of electricity in California per year by December 31, 2010.

SEC. 3. Section 25741 of the Public Resources Code is amended to read:

25741. As used in this chapter, the following terms have the following meaning:

(a) "Delivered" and "delivery" mean the electricity output of an in-state renewable electricity generation facility that is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or is scheduled for consumption by California end-use retail customers. Subject to criteria adopted by the commission, electricity generated by an eligible renewable energy resource may be considered "delivered" regardless of whether the electricity is generated at a different time from consumption by a California end-use customer.

(b) "In-state renewable electricity generation facility" means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility satisfies one of the following requirements:

(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network within this state and electricity produced by the facility is delivered to an in-state location.

(B) The facility has its first point of interconnection to the transmission network outside the state and satisfies all of the following requirements:

(i) It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.

(ii) It commences initial commercial operation after January 1, 2005.

(iii) Electricity produced by the facility is delivered to an in-state location.

(iv) It will not cause or contribute to any violation of a California environmental quality standard or requirement.

(v) If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

(vi) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the Energy Commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.

(C) The facility meets the requirements of clauses (i), (iii), (iv), (v), and (vi) in subparagraph (B), but does not meet the requirements of clause (ii) because it commences initial operation prior to January 1, 2005, if the facility satisfies either of the following requirements:

(i) The electricity is from incremental generation resulting from expansion or repowering of the facility.

(ii) The facility has been part of the existing baseline of eligible renewable energy resources of a retail seller established pursuant to

paragraph (2) of subdivision (b) of Section 399.15 of the Public Utilities Code.

(3) For the purposes of this subdivision, "solid waste conversion" means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801.1 of the Health and Safety Code.

(C) The technology produces no discharges to surface or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(F) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(G) The technology meets any other conditions established by the commission.

(H) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

(c) "Procurement entity" means any person or corporation that enters into an agreement with a retail seller to procure eligible renewable energy resources pursuant to subdivision (f) of Section 399.14 of the Public Utilities Code.

(d) "Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge authorized to be collected and to be transferred to the Renewable Resource Trust Fund pursuant to the Reliable Electric Service Investments Act (Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(e) "Report" means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the commission.

(f) "Retail seller" means a "retail seller" as defined in Section 399.12 of the Public Utilities Code.

SEC. 4. Section 25740.5 is added to the Public Resources Code, to read:

25740.5. (a) The commission shall optimize public investment and ensure that the most cost-effective and efficient investments in renewable energy resources are vigorously pursued.

(b) The commission's long-term goal shall be a fully competitive and self-sustaining supply of electricity generated from renewable sources.

(c) The program objective shall be to increase, in the near term, the quantity of California's electricity generated by in-state renewable electricity generation facilities, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

(d) An additional objective of the program shall be to identify and support emerging renewable technologies in distributed generation applications that have the greatest near-term commercial promise and that merit targeted assistance.

(e) The Legislature recommends allocations among all of the following:

(1) (A) Except as provided in subparagraph (B), production incentives for new in-state renewable electricity generation facilities, including repowered or refurbished facilities.

(B) Allocations shall not be made for electricity that is generated by an in-state renewable electricity generation facility that remains under an electricity purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter.

(C) Notwithstanding subparagraph (B), production incentives may be allowed in any month for incremental new electricity generated by an in-state renewable electricity generation facility that is repowered or refurbished, where the electricity is delivered under an electricity purchase contract with an electrical corporation originally entered into prior to September 24, 1996, whether amended or restated thereafter, if all of the following occur:

(i) The facility's electricity purchase contract provides that all electricity delivered and sold under the contract is paid at a price that does not exceed the Public Utilities Commission approved short-run avoided cost of energy.

(ii) Either of the following is true:

(I) The electricity purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the five-year average of the kilowatthours delivered for the corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive.

(II) The facility's installed capacity as of December 31, 1998, is less than 75 percent of the nameplate capacity as stated in the electricity purchase contract, the electricity purchase contract is amended to provide that the kilowatthours used to determine the capacity payment in any time-of-delivery period in any month under the contract shall be equal to the actual kilowatthour production, but no greater than the product of the

five-year average of the kilowatthours delivered for the corresponding time-of-delivery period and month, in the years 1994 to 1998, inclusive, and the ratio of installed capacity as of December 31 of the previous year, but not to exceed contract nameplate capacity, to the installed capacity as of December 31, 1998.

(iii) The production incentive is payable only with respect to the kilowatthours delivered in a particular month that exceeds the corresponding five-year average calculated pursuant to clause (ii).

(2) Rebates, buydowns, or equivalent incentives for emerging renewable technologies.

(3) Customer education.

(4) Incentives for reducing fuel costs, that are confirmed to the satisfaction of the commission, at solid fuel biomass energy facilities in order to provide demonstrable environmental and public benefits, including improved air quality.

(5) Solar thermal generating resources that enhance the environmental value or reliability of the electrical system and that require financial assistance to remain economically viable, as determined by the commission. The commission may require financial disclosure from applicants for purposes of this paragraph.

(6) Specified fuel cell technologies, if the commission makes all of the following findings:

(A) The specified technologies have similar or better air pollutant characteristics than renewable technologies in the report made pursuant to Section 25748.

(B) The specified technologies require financial assistance to become commercially viable by reference to wholesale generation prices.

(C) The specified technologies could contribute significantly to the infrastructure development or other innovation required to meet the long-term objective of a self-sustaining, competitive supply of electricity generated from renewable sources.

(7) Existing wind-generating resources, if the commission finds that the existing wind-generating resources are a cost-effective source of reliable energy and environmental benefits compared with other in-state renewable electricity generation facilities, and that the existing wind-generating resources require financial assistance to remain economically viable. The commission may require financial disclosure from applicants for the purposes of this paragraph.

(f) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be transferred to the Renewable Resource Trust Fund. Moneys collected between January 1, 2007, and January 1, 2012, shall be used for the purposes specified in this chapter.

SEC. 5. Section 25742 of the Public Resources Code is amended to read:

25742. (a) Ten percent of the funds collected pursuant to the renewable energy public goods charge shall be used for programs that are designed to achieve fully competitive and self-sustaining existing in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide during the 2007–2011 investment cycle. Eligibility for incentives under this section shall be limited to those technologies found eligible for funds by the commission pursuant to paragraphs (4), (5), and (7) of subdivision (e) of Section 25740.5.

(b) Any funds used to support in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the provisions of this chapter, including the following conditions:

(1) The commission shall establish a production incentive, which shall not exceed payment caps established by the commission, representing the difference between target prices and the price paid for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and price paid for electricity or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation.

(2) The commission may establish a time-differentiated incentive structure that encourages plants to run the maximum feasible amount of time and that provides a higher incentive when the plants are receiving the lowest price.

(3) The commission may consider inflation and production costs.

(c) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities shall not receive payments for any electricity produced that is used on site.

(d) (1) The commission shall award funding to eligible facilities based on a facility's individual need. In assessing a facility's individual need, the commission shall, to the extent feasible, consider all of the following:

(A) The amount of the funds being considered for an award to the facility.

(B) The cumulative amount of funds the facility has received previously from the commission and other state sources.

(C) The value of any current federal or state tax credits.

(D) The facility's contract price for energy and capacity.

(E) The likelihood that the award will make the facility competitive and self-sustaining within the 2007–2011 investment cycle.

(F) Any other criteria as determined by the commission.

(2) The assessment shall also consider the public benefits provided by the operation of the facility.

(3) The commission shall use its assessment of the facility's individual need to determine the value of an award to the public relative to other renewable energy investment alternatives.

(4) The commission shall compile its findings and report them to the Legislature in the reports prepared pursuant to Section 25748.

SEC. 6. Section 25743 of the Public Resources Code is amended to read:

25743. (a) Fifty-one and one-half percent of the money collected pursuant to the renewable energy public goods charge shall be used for programs designed to foster the development of new in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that operation of those facilities will provide.

(b) Any funds used for new in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the report, subject to all of the following requirements:

(1) In order to cover the above market costs of eligible renewable energy resources as approved by the Public Utilities Commission and selected by retail sellers to fulfill their obligations under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, the commission shall award funds in the form of supplemental energy payments, subject to the following criteria:

(A) The commission may establish caps on supplemental energy payments. The caps shall be designed to provide for a viable energy market capable of achieving the goals of Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code. The commission may waive application of the caps to accommodate a facility if it is demonstrated to the satisfaction of the commission that operation of the facility would provide substantial economic and environmental benefits to end-use customers subject to the renewable energy public goods charge.

(B) Supplemental energy payments shall be awarded only to facilities that are eligible for funding under this section.

(C) Supplemental energy payments awarded to facilities selected by a retail seller or procurement entity pursuant to Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be paid for no longer than 10 years, but shall, subject to the payment caps in subparagraph (A), be equal to the cumulative above-market costs relative to the applicable market price referent at the time of initial contracting, over the duration of the contract with the retail seller or procurement entity.

(D) The commission shall reduce or terminate supplemental energy payments for projects that fail either to commence and maintain operations consistent with the contractual obligations to an electrical corporation, or that fail to meet eligibility requirements.

(E) Funds shall be managed in an equitable manner in order for retail sellers to meet their obligation under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(F) A project selected by an electrical corporation may receive supplemental energy payments only if it results from a competitive

solicitation that is found by the Public Utilities Commission to comply with the California Renewables Portfolio Standard Program under Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, and the project has entered into an electricity purchase agreement resulting from that solicitation, that is approved by the Public Utilities Commission. A project selected for an electricity purchase agreement by another retail seller or procurement entity may receive supplemental energy payments only if the Public Utilities Commission determines that the selection of the project is consistent with the results of a least-cost and best-fit process, and the supplemental energy payments are reasonable in comparison to those paid under similar contracts with other retail sellers. The commission may not award supplemental energy payments to service load that is not subject to the renewable energy public goods charge.

(G) (i) Supplemental energy payments shall not be awarded for any purchases of renewable energy credits.

(ii) Supplemental energy payments shall not be awarded for electricity purchase agreements that have a duration of less than 10 years. The ineligibility of agreements of less than 10 years duration for supplemental energy payments does not constitute an insufficiency in supplemental energy payments pursuant to paragraph (4) or (5) of subdivision (b) of Section 399.15.

(2) (A) A facility that is located outside of California shall not be eligible for funding under this section unless it satisfies the requirements of this subdivision and the criteria of subparagraph (B) of paragraph (2) of subdivision (b) of Section 25741.

(B) No more than 10 percent of the funds available under this section shall be awarded to facilities located outside of California.

(3) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the commission and those facilities may not receive payments for any electricity produced that has any of the following characteristics:

(A) Is sold under an existing long-term contract with an existing in-state electrical corporation if the contract includes fixed energy or capacity payments, except for that electricity that satisfies subparagraph (C) of paragraph (1) of subdivision (c) of Section 399.6 of the Public Utilities Code.

(B) Is used onsite or is sold to customers in a manner that excludes competition transition charge payments, or is otherwise excluded from competition transition charge payments.

(C) Is a hydroelectric generation project that will require a new or increased appropriation of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code, or any other provision authorizing an appropriation of water.

(D) Is a solid waste conversion facility, unless the facility meets the criteria established in paragraph (3) of subdivision (b) of Section 25741 and the facility certifies that any local agency sending solid waste to the

facility is in compliance with Division 30 (commencing with Section 40000), has reduced, recycled, or composted solid waste to the maximum extent feasible, and shall have been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

(4) Eligibility to compete for funds or to receive funds shall be contingent upon having to sell the electricity generated by the renewable electricity generation facility to customers subject to the renewable energy public goods charge.

(5) The commission may require applicants competing for funding to post a forfeitable bid bond or other financial guaranty as an assurance of the applicant's intent to move forward expeditiously with the project proposed. The amount of any bid bond or financial guaranty may not exceed 10 percent of the total amount of the funding requested by the applicant.

(6) In awarding funding, the commission may provide preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(c) Repowered existing facilities shall be eligible for funding under this subdivision if the capital investment to repower the existing facility equals at least 80 percent of the value of the repowered facility.

(d) Facilities engaging in the direct combustion of municipal solid waste or tires are not eligible for funding under this subdivision.

(e) Production incentives awarded under this subdivision prior to January 1, 2002, shall commence on the date that a project begins electricity production, provided that the project was operational prior to January 1, 2002, unless the commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making a finding that the project will not be operational due to circumstances beyond the control of the developer, the commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production may not extend beyond January 1, 2007.

(f) Facilities generating electricity from biomass energy shall be considered an in-state renewable electricity generation facility to the extent that they report to the commission the types and quantities of biomass fuels used and certify to the satisfaction of the commission that fuel utilization is limited to the following:

(1) Agricultural crops and agricultural wastes and residues.

(2) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.

(3) Wood and wood wastes that meet all of the following requirements:

(A) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4).

(B) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.

(C) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.

SEC. 7. Section 25744.5 is added to the Public Resources Code, to read:

25744.5. The commission shall allocate and use funding available for emerging renewable technologies pursuant to Section 25744 and Section 25751 to fund photovoltaic and solar thermal electric technologies in accordance with eligibility criteria and conditions established pursuant to Chapter 8.8 (commencing with Section 25780).

SEC. 8. Section 25745 of the Public Resources Code is repealed.

SEC. 9. Section 25746 of the Public Resources Code is amended to read:

25746. (a) One percent of the money collected pursuant to the renewable energy public goods charge shall be used in accordance with this chapter to promote renewable energy and disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer market for renewable energy and for small-scale emerging renewable energy technologies.

(b) If the commission provides funding for a regional accounting system to verify compliance with the renewable portfolio standard by retail sellers, pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code, the commission shall recover all costs from user fees.

SEC. 10. Section 25749 of the Public Resources Code is repealed.

SEC. 11. Section 25751 of the Public Resources Code is amended to read:

25751. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby established within the Renewable Resource Trust Fund:

(1) The Existing Renewable Resources Account.

(2) New Renewable Resources Account.

(3) Emerging Renewable Resources Account.

(4) Renewable Resources Consumer Education Account.

(c) The money in the fund may be expended, only upon appropriation by the Legislature in the annual Budget Act, for the following purposes:

(1) The administration of this article by the state.

(2) The state's expenditures associated with the accounting system established by the commission pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.

(d) That portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and

emerging renewable resource technologies, pursuant to Section 25740.5, shall be transmitted to the commission at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 399.6 of the Public Utilities Code. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the commission for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the commission without regard to fiscal year for the purposes enumerated in this chapter.

(e) Upon notification by the commission, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the commission based on the procedures it adopts under this chapter. Based on the eligibility of each award, the commission shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the commission to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the commission to represent a portion of a multiyear funding commitment.

(f) The commission may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.

(g) The Department of Finance shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 12. Section 387 of the Public Utilities Code is amended to read:

387. (a) Each governing body of a local publicly owned electric utility, as defined in Section 9604, shall be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement.

(b) Each local publicly owned electric utility shall report, on an annual basis, to its customers and to the State Energy Resources Conservation and Development Commission, the following:

(1) Expenditures of public goods funds collected pursuant to Section 385 for eligible renewable energy resource development. Reports shall contain a description of programs, expenditures, and expected or actual results.

(2) The resource mix used to serve its customers by fuel type. Reports shall contain the contribution of each type of renewable energy resource with separate categories for those fuels that are eligible renewable energy resources as defined in Section 399.12, except that the electricity is delivered to the local publicly owned electric utility and not a retail seller. Electricity shall be reported as having been delivered to the local publicly owned electric utility from an eligible renewable energy resource when the electricity would qualify for compliance with the renewables portfolio standard if it were delivered to a retail seller.

(3) The utility's status in implementing a renewables portfolio standard pursuant to subdivision (a) and the utility's progress toward attaining the standard following implementation.

SEC. 13. Section 399.11 of the Public Utilities Code is amended to read:

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, it is the intent of the Legislature that the commission and the State Energy Resources Conservation and Development Commission implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the State Energy Resources Conservation and Development Commission and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(e) New and modified electric transmission facilities may be necessary to facilitate the state achieving its renewables portfolio standard targets.

SEC. 14. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Delivered" and "delivery" have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(b) "Eligible renewable energy resource" means an electric generating facility that meets the definition of "in-state renewable electricity generation facility" in Section 25741 of the Public Resources Code, subject to the following limitations:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water from a watercourse.

(B) Notwithstanding subparagraph (A), an existing conduit hydroelectric facility, as defined by Section 823a of Title 16 of the United States Code, of 30 megawatts or less, shall be an eligible renewable energy resource. A new conduit hydroelectric facility, as defined by Section 823a of Title 16 of the United States Code, of 30 megawatts or less, shall be an eligible renewable energy resource so long as it does not require a new or increased appropriation or diversion of water from a watercourse.

(3) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.

(c) "Energy Commission" means the State Energy Resources Conservation and Development Commission.

(d) "Local publicly owned electric utility" has the same meaning as provided in subdivision (d) of Section 9604.

(e) "Procure" means that a retail seller receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article.

(f) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to this article.

(g) (1) "Renewable energy credit" means a certificate of proof, issued through the accounting system established by the Energy Commission pursuant to Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

(2) "Renewable energy credit" includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimus quantity, as determined by the Energy Commission, shall result in the creation of a renewable energy credit.

(h) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electric utility.

SEC. 15. Section 399.13 of the Public Utilities Code is amended to read:

399.13. The Energy Commission shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (b) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the Energy Commission shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data

from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The Energy Commission shall consult with other western states and with the Western Electricity Coordinating Council in the development of this system.

(d) Certify, for purposes of compliance with the renewable portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the Energy Commission determines that the following conditions have been satisfied:

(1) The local publicly owned electric utility that is procuring the electricity is in compliance with the requirements of Section 387.

(2) The local publicly owned electric utility has established an annual renewables portfolio standard target comparable to those applicable to an electrical corporation, is procuring sufficient eligible renewable energy resources to satisfy the targets, and will not fail to satisfy the targets in the event that the renewable energy credit is sold to another retail seller.

(e) Allocate and award supplemental energy payments pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to eligible renewable energy resources to cover above-market costs of renewable energy. A project selected by an electrical corporation may receive supplemental energy payments only if it results from a competitive solicitation that is found by the commission to comply with the California Renewables Portfolio Standard Program under this article and the project has entered into an electricity purchase agreement resulting from that solicitation that is approved by the commission. A project selected for an electricity purchase agreement by another retail seller may receive supplemental energy payments only if the retail seller demonstrates to the commission that the selection of the project is consistent with the results of a least-cost and best-fit process, and that the supplemental energy payments are reasonable in comparison to those paid under similar contracts with other retail sellers.

SEC. 16. Section 399.14 of the Public Utilities Code is amended to read:

399.14. (a) (1) The commission shall direct each electrical corporation to prepare a renewable energy procurement plan that includes the matter in paragraph (3), to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(2) The commission shall adopt, by rulemaking, all of the following:

(A) A process for determining market prices pursuant to subdivision (c) of Section 399.15. The commission shall make specific determinations of market prices after the closing date of a competitive solicitation conducted by an electrical corporation for eligible renewable energy resources.

(B) A process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources to comply with the annual California Renewables Portfolio Standard Program obligations on a total cost basis. This process shall consider estimates of indirect costs associated with needed transmission investments and ongoing utility expenses resulting from integrating and operating eligible renewable energy resources.

(C) (i) Flexible rules for compliance, including rules permitting retail sellers to apply excess procurement in one year to subsequent years or inadequate procurement in one year to no more than the following three years. The flexible rules for compliance shall apply to all years, including years before and after a retail seller procures at least 20 percent of total retail sales of electricity from eligible renewable energy resources.

(ii) The flexible rules for compliance shall address situations where, as a result of insufficient transmission, a retail seller is unable to procure eligible renewable energy resources sufficient to satisfy the requirements of this article. Any rules addressing insufficient transmission shall require a finding by the commission that the retail seller has undertaken all reasonable efforts to do all of the following:

(I) Utilize flexible delivery points.

(II) Ensure the availability of any needed transmission capacity.

(III) If the retail seller is an electric corporation, to construct needed transmission facilities.

(IV) Nothing in this subparagraph shall be construed to revise any portion of Section 454.5.

(D) Standard terms and conditions to be used by all electrical corporations in contracting for eligible renewable energy resources, including performance requirements for renewable generators. A contract for the purchase of electricity generated by an eligible renewable energy resource shall, at a minimum, include the renewable energy credits associated with all electricity generation specified under the contract. The standard terms and conditions shall include the requirement that, no later than six months after the commission's approval of an electricity purchase agreement entered into pursuant to this article, the following information about the agreement shall be disclosed by the commission: party names, resource type, project location, and project capacity.

(3) Consistent with the goal of procuring the least-cost and best-fit eligible renewable energy resources, the renewable energy procurement plan submitted by an electrical corporation shall include all of the following:

(A) An assessment of annual or multiyear portfolio supplies and demand to determine the optimal mix of eligible renewable energy

resources with deliverability characteristics that may include peaking, dispatchable, baseload, firm, and as-available capacity.

(B) Provisions for employing available compliance flexibility mechanisms established by the commission.

(C) A bid solicitation setting forth the need for eligible renewable energy resources of each deliverability characteristic, required online dates, and locational preferences, if any.

(4) In soliciting and procuring eligible renewable energy resources, each electrical corporation shall offer contracts of no less than 10 years in duration, unless the commission approves of a contract of shorter duration.

(5) In soliciting and procuring eligible renewable energy resources, each electrical corporation may give preference to projects that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(b) The commission may authorize a retail seller to enter into a contract of less than 10 years' duration with an eligible renewable energy resource, subject to the following conditions:

(1) No supplemental energy payments shall be awarded for a contract of less than 10 years' duration. The ineligibility of contracts of less than 10 years' duration for supplemental energy payments pursuant to this paragraph does not constitute an insufficiency in supplemental energy payments pursuant to paragraph (4) or (5) of subdivision (b) of Section 399.15.

(2) The commission has established, for each retail seller, minimum quantities of eligible renewable energy resources to be procured either through contracts of at least 10 years' duration or from new facilities commencing commercial operations on or after January 1, 2005.

(c) The commission shall review and accept, modify, or reject each electrical corporation's renewable energy procurement plan prior to the commencement of renewable procurement pursuant to this article by an electrical corporation.

(d) The commission shall review the results of an eligible renewable energy resources solicitation submitted for approval by an electrical corporation and accept or reject proposed contracts with eligible renewable energy resources based on consistency with the approved renewable energy procurement plan. If the commission determines that the bid prices are elevated due to a lack of effective competition amongst the bidders, the commission shall direct the electrical corporation to renegotiate the contracts or conduct a new solicitation.

(e) If an electrical corporation fails to comply with a commission order adopting a renewable energy procurement plan, the commission shall exercise its authority pursuant to Section 2113 to require compliance. The commission shall enforce comparable penalties on any other retail seller that fails to meet annual procurement targets established pursuant to Section 399.15.

(f) (1) The commission may authorize a procurement entity to enter into contracts on behalf of customers of a retail seller for deliveries of

eligible renewable energy resources to satisfy annual renewables portfolio standard obligations. The commission may not require any person or corporation to act as a procurement entity or require any party to purchase eligible renewable energy resources from a procurement entity.

(2) Subject to review and approval by the commission, the procurement entity shall be permitted to recover reasonable administrative and procurement costs through the retail rates of end-use customers that are served by the procurement entity and are directly benefiting from the procurement of eligible renewable energy resources.

(3) A project selected for a long-term electricity purchase contract of more than 10 years' duration by a procurement entity through a competitive solicitation, and approved by the commission, may receive supplemental energy payments from the Energy Commission if the transaction satisfies the requirements of subdivision (b) of Section 25743 of the Public Resources Code.

(g) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates.

(h) Construction, alteration, demolition, installation, and repair work on an eligible renewable energy resource that receives production incentives or supplemental energy payments pursuant to Sections 25742 and 25743 of the Public Resources Code, including work performed to qualify, receive, or maintain production incentives or supplemental energy payments is "public works" for the purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

SEC. 17. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all electrical corporations to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, if sufficient funds are made available pursuant to Section 399.6 and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to cover the above-market costs of eligible renewable energy resources.

(b) The commission shall implement annual procurement targets for each retail seller as follows:

(1) Each retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010. A retail seller with 20 percent of retail sales procured from eligible renewable energy resources in any year shall not be required

to increase its procurement of renewable energy resources in the following year.

(2) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each retail seller based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and to the extent applicable, adjusted going forward pursuant to Section 399.12.

(3) Only for purposes of establishing these targets, the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

(4) In the event that a retail seller fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the retail seller shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall if sufficient funds are made available pursuant to Section 399.6 and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, to cover any above-market costs of eligible renewable energy resources.

(5) If supplemental energy payments from the Energy Commission, in combination with the market prices approved by the commission, are insufficient to cover any above-market costs of electricity procured from eligible renewable energy resources through an electricity purchase agreement of at least 10 years' duration, the commission shall allow a retail seller to limit its annual procurement obligation to the quantity of eligible renewable energy resources that can be procured with available supplemental energy payments. A retail seller shall not be required to enter into long-term contracts with operators of eligible renewable energy resources that exceed the market prices established pursuant to subdivision (c).

(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of the following:

(1) The long-term market price of electricity for fixed price contracts, determined pursuant to an electrical corporation's general procurement activities as authorized by the commission.

(2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

(3) The value of different products including baseload, peaking, and as-available electricity.

(d) The Energy Commission shall provide supplemental energy payments from funds in the New Renewable Resources Account of the Renewable Resource Trust Fund to eligible renewable energy resources pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code, consistent with this article, for any above-market costs. Indirect costs associated with the purchase of eligible

renewable energy resources by an electrical corporation, including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades, shall not be eligible for supplemental energy payments, but are recoverable in rates, as authorized by the commission. The Energy Commission shall not award supplemental energy payments to service load that is not subject to the renewable energy public goods charge.

(e) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

(f) The commission shall consult with the Energy Commission in calculating market prices under subdivision (c) and establishing other renewables portfolio standard policies.

SEC. 18. Section 399.16 of the Public Utilities Code is repealed.

SEC. 19. Section 399.16 is added to the Public Utilities Code, to read:

399.16. (a) The commission, by rule, may authorize the use of renewable energy credits to satisfy the requirements of the renewables portfolio standard established pursuant to this article, subject to the following conditions:

(1) Prior to authorizing any renewable energy credit to be used toward satisfying annual procurement targets, the commission and the Energy Commission shall conclude that the tracking system established pursuant to subdivision (c) of Section 399.13, is operational, is capable of independently verifying the electricity generated by an eligible renewable energy resource and delivered to the retail seller, and can ensure that renewable energy credits shall not be double counted by any seller of electricity within the service territory of the Western Electricity Coordinating Council (WECC).

(2) A renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state or any other state, or for verifying retail product claims in this state or any other state.

(3) The electricity is delivered to a retail seller, the Independent System Operator, or a local publicly owned electric utility.

(4) All revenues received by an electrical corporation for the sale of a renewable energy credit shall be credited to the benefit of ratepayers.

(5) No renewable energy credits shall be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits. Deliveries under those contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.13 and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

(6) No renewable energy credits shall be created for electricity generated under any electricity purchase contract executed after January 1,

2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries under the electricity purchase contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.12 and count towards the renewables portfolio standard obligations of the purchasing retail seller.

(7) The commission may limit the quantity of renewable energy credits that may be procured unbundled from electricity generation by any retail seller, to meet the requirements of this article.

(8) No retail seller shall be obligated to procure renewable energy credits to satisfy the requirements of this article in the event that supplemental energy payments, in combination with the market prices approved by the commission, are insufficient to cover the above-market costs of long-term contracts, of more than 10 years' duration, with eligible renewable energy resources.

(9) Any additional condition that the commission determines is reasonable.

(b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits in rates.

SEC. 20. Article 9 (commencing with Section 635) is added to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 9. Long-Term Plans and Procurement Plans

635. In a long-term plan adopted by an electrical corporation or in a procurement plan implemented by a local publicly owned electric utility, the electrical corporation or local publicly owned electric utility shall adopt a strategy applicable both to newly constructed or repowered generation owned and procured by the electrical corporation or local publicly owned electric utility to achieve efficiency in the use of fossil fuels and to address carbon emissions.

SEC. 21. Section 2854 is added to Chapter 9 of Part 2 of Division 1 of the Public Utilities Code, to read:

2854. (a) Notwithstanding Section 7550.5 of the Government Code, on or before January 1, 2008, the commission shall report to the Legislature on the feasibility, desirability, and design of performance-based incentives for solar energy systems of less than 30 kilowatt.

(b) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 22. By June 30, 2007, the Public Utilities Commission, in consultation with the State Energy Resources Conservation and Development Commission, shall review the impact of allowing supplemental energy payments to be applied toward contracts for the procurement of eligible renewable energy resources that are of a duration

of less than 10 years, and to report to the Legislature with the results of the review, including both of the following:

(a) The impact that higher priced short-term contracts may have on the allocation of supplemental energy payments.

(b) Recommended methods to fairly allocate supplemental energy payments for the above-market costs of short-term contracts that ensure that no more supplemental energy payments are paid for those contracts than would have been allocated for an equivalent long-term contract.

SEC. 23. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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EXHIBIT 3

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K

(Mark One)
[X] ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the fiscal year ended December 31, 2007

[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____

Commission file number 1-14201

SEMPRA ENERGY
(Exact name of registrant as specified in its charter)

California	33-0732627
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)

101 Ash Street, San Diego, California 92101
(Address of principal executive offices)
(Zip Code)

(619) 696-2034
(Registrant's telephone number, including area code)

SECURITIES REGISTERED PURSUANT TO SECTION 12(b) OF THE ACT:

Title of each class	Name of each exchange on which registered
Common stock, without par value	New York

SECURITIES REGISTERED PURSUANT TO SECTION 12(g) OF THE ACT: None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.
Yes X No _____

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.
Yes _____ No X

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes X No _____

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

X

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer [X] Accelerated filer [ ] Non-accelerated filer [ ]

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes _____ No X

Exhibit Index on page 42. Glossary on page 48.

Aggregate market value of the voting and non-voting common equity held by non-affiliates of the registrant as of June 30, 2007 was $15.5 billion.

Registrant's common stock outstanding as of January 31, 2008, was 261,306,080 shares.

DOCUMENTS INCORPORATED BY REFERENCE:
Portions of the 2007 Annual Report to Shareholders are incorporated by reference into Parts I, II and IV.

Portions of the Proxy Statement prepared for the May 2008 annual meeting of shareholders are incorporated by reference into Parts II and III.

environmental issues associated with the project, including alternative project and route proposals. The final EIR/EIS is scheduled to be issued by June 2008. A final CPUC decision on the project, which will consider the environmental, technical and economic attributes of the various alternatives, is expected in the second half of 2008.

Given this timeline, if the project is approved by the CPUC as proposed in the company's original filings, the earliest management projects the Sunrise Powerlink would be in commercial operation would be in the first half of 2011.

Renewable Energy

California Senate Bill 107 (SB 107), enacted in September 2006, requires certain California electric retail sellers, including SDG&E, to achieve a 20-percent renewable energy portfolio by 2010. The rules governing this requirement, administered by both the CPUC and the California Energy Commission, are generally known as the Renewable Portfolio Standards (RPS).

At the end of December 2007, SDG&E has renewable energy supply under contract of approximately 13 percent of its projected 2010 retail demand. A substantial portion of these contracts, however, are contingent upon many factors, including access to electric transmission infrastructure (including SDG&E's proposed Sunrise Powerlink transmission line), timely regulatory approval of contracted renewable energy projects, the renewable energy project developers' ability to obtain project financing, and successful development and implementation of the renewable energy technologies.

Given the revised Sunrise Powerlink EIR/EIS timeline, as discussed above, the Sunrise Powerlink transmission line, if approved, will not be in operation to provide transmission capability to meet the RPS requirements by the 2010 deadline. Consequently, SDG&E believes it is unlikely that it will be able to meet the 2010 delivered-energy goal as contained in the RPS. SDG&E's failure to attain the 20-percent goal in 2010, or in any subsequent year, could subject it to a CPUC-imposed penalty, subject to flexible compliance measures, of 5 cents per kilowatt hour of renewable energy under-delivery up to a maximum penalty of $25 million per year under the current rules. In January 2008, the CPUC issued a proposed decision defining the flexible compliance mechanisms that can be used in meeting the RPS goals in 2010 and beyond, including clarifying rules within which insufficient transmission is a permissible reason for failing to satisfy the RPS goals. While SDG&E believes it will be able to comply with the RPS requirements based on its contracting activity and application of the flexible compliance mechanisms, SDG&E is unable to predict whether it will be penalized or the amount that would be imposed.

Greenhouse Gas Regulation

Legislation was enacted in 2006, including California Assembly Bill 32 (AB 32) and California Senate Bill 1368 (SB 1368), mandating reductions in greenhouse gas emissions, which could affect costs and growth at the Sempra Utilities and at Sempra Generation's power plants. Any cost impact at the Sempra Utilities is expected to be recoverable through rates. As discussed in Note 16 under "Environmental Issues," compliance with this and similar legislation could adversely affect Sempra Generation. However, such legislation may also present growth opportunities for Sempra Generation due to increased preferability of natural gas for electric generation, as opposed to other sources.

Long-Term Procurement Plan

SDG&E filed its long-term procurement plan (LTPP) with the CPUC in December 2006, including a ten-year energy resource plan that details its expected portfolio of energy resources over the planning horizon of 2007 - 2016. The LTPP incorporates the renewable energy and greenhouse gas emissions performance

EXHIBIT 4

DGX/tbo 7/24/2007

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project.	Application 06-08-010 (Filed August 4, 2006)

ASSIGNED COMMISSIONER'S RULING ADDRESSING NEWLY DISCLOSED ENVIRONMENTAL INFORMATION

OVERVIEW

Pursuant to the requirements of the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), the California Public Utilities Commission (Commission) and the United States Bureau of Land Management (BLM) are preparing a joint environmental impact report and environmental impact study (EIR/EIS) to evaluate the environmental impacts of the proposed Sunrise Powerlink Transmission Project (proposed Sunrise Project).

Under CEQA, an EIR must "describe a reasonable range of alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." 14 Cal. Code Regs. Sec. 15126.6(a). The Commission, as the CEQA Lead Agency, is the entity legally responsible for developing a list of CEQA project objectives and analyzing a reasonable range of alternatives in the EIR/EIS. This obligation is proactive in that the Commission, in collaboration

likelihood, this means that the proposed Sunrise Project, if approved, could not be in service by 2010.

I am committed to ensuring that we do not jeopardize SDG&E's ability to meet its RPS obligations, and to serve its customers reliably and economically. Consequently, I have examined the potential impact of not having the proposed Sunrise Project in service by 2010 from three perspectives: whether SDG&E will be able to meet the state's RPS goals; the economic impact on ratepayers; and the reliability impacts. As set forth below, while there is dispute on some of these issues, there is also evidence in the record that if the proposed Sunrise Project is approved, the delay necessitated here is not significant.

With regard to the state's RPS goals, SDG&E's testimony in this case states that the proposed Sunrise Project is not needed to meet its RPS goals for 2010, or even to meet goals of 33% RPS by 2020: "Hypothetically, given the CAISO's open access regime, it is possible for SDG&E to meet its 2010 RPS goals without the Sunrise Powerlink." SDG&E Opening Testimony at III-15, excerpt at Attachment F. SDG&E's witness Jan Strack amplified this point in its Supplemental Testimony submitted on January 26, 2007: "The existing transmission network between the Imperial Valley and the San Diego basin, and between the Tehachapi area and the San Diego basin, is physically capable of delivering enough renewable energy to meet San Diego area load serving entities' shares of California's renewable energy goals for years 2010 (20% of retail sales) and 2020 (33% of retail sales)." Strack Supplemental Testimony at 64, excerpt at Attachment G. Thus, according to SDG&E's own testimony, extending the schedule in this proceeding will *not* cause SDG&E to run afoul of the RPS requirements.

EXHIBIT 5

Doing something about climate change

By Richard C.J. Somerville
February 14, 2007

Earlier this month in Paris, the Intergovernmental Panel on Climate Change released a 21-page Summary for Policy-makers based on its latest assessment report, the result of an exhaustive international scientific effort by hundreds of scientists lasting three years. In sobering terms, the summary concluded that recent warming of the climate system is "unequivocal" and that most of it is at least 90 percent certain to be due to human activities.

We climate scientists already knew this, but is the public convinced? The climate is changing, largely because people have added carbon dioxide, or CO_2, to the atmosphere, mainly by burning coal, oil and natural gas. This extra CO_2 adds to the Earth's natural greenhouse effect. As recently as the 19th century, the CO_2 concentration was about 280 parts per million by volume, or ppmv, an amount virtually unchanged for thousands of years. Today it is about 380 ppmv and rising. The only way to halt the rise in concentration is to drastically reduce the rate at which we add CO_2 to the atmosphere.

In any case, what should the ultimate goal be? Asking whether the right level at which to stabilize CO_2 should be, say, 450 or 550 ppmv, may not be the best way to pose the question, at least scientifically. In fact, our scientific understanding of the climate system and its sensitivity to greenhouse gas concentrations is not yet good enough to say that 450 is "safe" but 550 is "dangerous."

The risk goes up as the CO_2 level goes up, and it's likely to be nonlinear. We may encounter various unpredicted tipping points along the way, any of which could be extremely nasty. These prevent us from predicting sea level rise with certainty, to pick one example, because processes governing the stability of the Greenland ice sheet are not yet well enough understood to permit firm quantitative projections. Thus, a preference for 450 or 550 ppmv or some other number is really a reflection of one's risk tolerance rather than a genuinely science-based decision.

Scientists can't make policy; they can only provide sound science as an input to wise policy. The tragedy is that policy-makers around the world have not yet responded with adequate urgency. There is very little sign of global determination to take this issue seriously enough to commit to stabilization of greenhouse gas concentrations at any level. What a state or city in the United States does is helpful, as are individual choices, but there is no meaningful national commitment, and that is true of most other countries as well.

Meanwhile, world population continues to grow, global energy demand continues to increase, and developing countries continue to exploit fossil fuels. Emissions of CO_2 globally are rising, not falling. The imperative need is to generate public concern and political will that can start us on the path to rapid and massive reductions in CO_2 emissions.

Stabilization of concentration at any reasonable level will take emissions cuts of something like 70 percent, which is 10 or more times the cuts envisioned under the Kyoto Protocol, a tentative first step diplomatically. We are effectively talking about weaning the entire world from fossil fuels.

There will be no single magic solution. We will need to pursue all the approaches vigorously. The most promising include energy conservation and efficiency, increased use of renewables, carbon sequestration and nuclear power. Research on advanced technologies not yet ready, such as fusion, must continue, as should efforts toward population stabilization.

I am optimistic about what technology can accomplish, once creative engineers and business people are encouraged by governments to work toward clearly stated goals of massive greenhouse gas-emission reductions. I am convinced that the economic case can be made convincingly, too, once people understand the cost of doing nothing or too little.

The question is not whether we, all 6-and-a-half-billion of us, have the technical capacity, but whether we have the collective determination to act. Settle that issue first, then decide on what CO_2 concentration level is tolerable.

If we fail to act decisively and soon, then quibbling about targets of 450 versus 550 ppmv as a "safe" CO_2 concentration will be meaningless. Procrastinating is simply asking nature to teach us what "dangerous" means, and that will certainly be an extremely unpleasant lesson.

■ Somerville is a climate scientist and distinguished professor at Scripps Institution of Oceanography at the University of California San Diego. He is a coordinating lead author for the most recent report of the Intergovernmental Panel on Climate Change. The views expressed here are his own.

»Next Story»

EXHIBIT 6

Mailed 7/27/2005

Decision 05-07-039 July 21, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the California Renewables Portfolio Standard Program.	Rulemaking 04-04-026 (Filed April 22, 2004)

OPINION APPROVING PROCUREMENT PLANS AND REQUESTS FOR OFFERS FOR 2005 RPS SOLICITATIONS

procuring energy that would require either transporting the acquired power to the utility's load center or remarketing it.

The risks noted by SCE and SDG&E can be obviated, as TURN points out, by adjusting bids that specify delivery at points outside the utility's service territory to account for any increased costs associated with remarketing, swaps, potential congestion, and other factors arising from the out-of-area delivery. If this adjustment is made expressly and transparently for review by the utility's Procurement Review Group and the Commission, it should provide an adequate basis for comparison with bids proposing in-area delivery, including bids that propose in-area delivery after initial interconnection outside the utility's service territory.[8]

In order to attain the 20% goal by 2010 and maintain or increase it thereafter, the utilities must engage in creative and aggressive procurement.[9] Merely waiting for projects to be developed that will deliver directly and only to the utilities' preferred delivery points, using transmission facilities that do not yet exist, is not likely to accomplish the goals of the RPS program, as SDG&E's frank assessment of its situation highlights. Widening the scope of delivery options is one step that can be taken without any additional investment in physical infrastructure and without statutory or regulatory changes. We will require the utilities to change their RFOs to allow bids from out-of-territory

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[8] The cost of upgrades to allow delivery through a utility's service territory to another utility should only be included if the bid proposes delivery to the other utility.

[9] The draft Energy Action Plan II now under consideration by this Commission and the Energy Commission proposes implementation of Gov. Schwarzenegger's goal of increasing statewide use of renewable resources to 33% by 2020. (See http://www.cpuc.ca.gov/static/industry/electric/energy+action+plan/index.htm.)

EXHIBIT 7

ALJ/BWM/sid

Mailed 5/26/2006

Decision 06-05-039 May 25, 2006

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the California Renewables Portfolio Standard Program.	Rulemaking 04-04-026 (Filed April 22, 2004)

OPINION CONDITIONALLY APPROVING PROCUREMENT PLANS FOR 2006 RPS SOLICITATIONS, ADDRESSING TOD BENCHMARKING METHODOLOGY, AND CLOSING PROCEEDING

3. Projects

We are required to direct electrical corporations to prepare RPS Plans. We must review and accept, modify or reject those Plans. We must review the results of an RPS solicitation submitted for approval and accept or reject proposed contracts based on consistency with the approved Plan. Finally, we are directed to exercise our authority to require compliance with our RPS Plan orders. (§ 399.14(a), (b), (c) and (d).)

In this context, we note parties express considerable concern regarding whether or not transmission will be available to permit compliance with the requirement that 20% of retail sales be obtained from renewable resources by 2010. We are considering this matter in several places, as noted above.

We also point out here, however, that electrical corporations must bring us their concerns and problems along with reasonable proposed solutions in time for us to respond and allow this program to succeed. In a future determination of an electrical corporation's compliance with an RPS Plan and program requirements, we will consider the extent to which the electrical corporation brought a problem to us on a timely basis, and proposed a reasonable and realistic solution. We will not be sympathetic to granting waivers or reducing penalties due to lack of transmission, for example, without the electrical corporation demonstrating that it took all reasonable action to bring the problem to our attention timely, presented realistic solutions, filed applications timely for necessary projects, and took any and all other actions that could reasonably have been expected to address, if not solve, the problem.

Request for Extension of 2005 Earmarking Deadline: In its May 15, 2006 pleading, PG&E also asks that the earmarking deadline for the 2005 solicitation be deferred from June 30, 2006 to September 30, 2006.[12] PG&E gives examples of issues that it asserts need to be resolved, and will make the June 30, 2006 deadline problematic. No party argues to the contrary. No other IOU asks for similar relief. PG&E's request is granted, but only for PG&E.

C. Utility Construction and Ownership

PG&E and SDG&E include utility ownership alternatives in their RFOs. In particular, each shows that a bidder may offer a turnkey agreement or a buyout option after a number of years. SCE does not mention turnkey or buyout options, but allows affiliates of SCE to bid.

We note, however, that neither PG&E, SCE nor SDG&E as a utility company includes any discussion in its Plan of the utility itself building, and then owning and operating, the renewable generation resource. We point out that procure "means that a utility may acquire the renewable output of electric generation facilities that it owns..." (§ 399.14(g).) Also, "[n]othing in this article [Article 16, the RPS statute] is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller's obligation to comply with this article." (*Id.*)

The law is clear. The utility may procure the renewable generation from itself. There is no preference for compliance through purchases from a third party, including affiliates or others.

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[12] The June 30, 2006 date is set in D.05-07-039, ordering paragraph 15.

The IOUs are apparently not contemplating the building of renewable generation at this time. We intend to enforce the 20% by 2010 requirement. In doing so, we will take into account whether or not each electrical corporation undertook all reasonable actions to comply. One of those actions is building, then owning and operating, the resource itself. Utility construction of generation resources, of course, must be fully consistent with all Commission procurement rules (e.g., all-source solicitations; see D.04-12-048). We do not here require utilities to build resources. We only observe that the option should be considered.

The burden is on the electrical corporation to comply with the RPS program, subject to certain compliance flexibility. Compliance must be met, subject to compliance flexibility and absent valid reasons otherwise. By adopting the amended Plans herein, we point out that the absence of discussion in the 2006 Plans about a utility building, owning and operating the renewable resource does not excuse an IOU from compliance on the basis that it did not build the plant itself, absent a valid reason otherwise.

Finally, we point out that a utility may build a renewable resource and, under appropriate circumstances, earn between 0.5% and 1.0% increased rate of return on that investment. (§ 454.3.) That is, the Legislature has authorized an increased incentive for utility ownership of renewable generation. We think IOUs should consider taking advantage of this law and, where reasonable and appropriate, we will authorize the increased rate of return.

D. Deposits and Collateral

For the reasons explained below, we encourage IOUs to reconsider various bid and deposit requirements. We will take the level of deposits into

EXHIBIT 8

ALJ/BWM/sid

Mailed 2/15/2007

Decision 07-02-011 February 15, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program.	Rulemaking 06-05-027 (Filed May 25, 2006)

OPINION CONDITIONALLY ACCEPTING PROCUREMENT PLANS FOR 2007 RPS SOLICITATIONS

In particular, we note (as we similarly did last year) that minimal discussion in an RPS Plan about a utility building a renewable energy resource does not itself excuse an IOU from compliance with RPS goals. Our conditional acceptance of these Plans does not constitute a finding that each IOU has undertaken all reasonable actions to comply with RPS Program goals. We do not here require utilities to build resources. Nonetheless, we encourage IOUs to actively assess the feasibility of utility ownership, and pursue such ownership when and where it makes sense. We are unlikely to look favorably on a showing prepared in 2010, for example, regarding whether the IOU should have built plant earlier in the decade. Rather, we think the most convincing showing, if any, would likely include information created contemporaneously with each annual RPS Plan.

4.2.2. SCE's Concern about Asymmetric Rate Treatment

SCE states that a major obstacle exists in its pursuing the possibility of building its own RPS generation. According to SCE, the Commission in D.04-12-048 established an asymmetric cost sharing mechanism for utility construction of new generating resources. In particular, the Commission determined that 100% of actual utility construction cost above a utility bid-price must be paid by utility shareholders, but 50% of any savings below the utility bid-price is shared with ratepayers. SCE reports that its request for rehearing has been granted in part, and that until the 50/50 sharing mechanism is reheard SCE "is practically prevented from pursuing utility built renewable generation." (Reply Comments, p. 16.)

To the contrary, the Commission routinely balances competing interests in making its decisions. We have balanced various interests and determined that

EXHIBIT 9

Decision 07-12-052 December 20, 2007

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate Procurement Policies and Consider Long-Term Procurement Plans.	Rulemaking 06-02-013 (Filed February 16, 2006)

(See Appendix A for a list of appearances.)

OPINION ADOPTING PACIFIC GAS AND ELECTRIC COMPANY'S, SOUTHERN CALIFORNIA EDISON COMPANY'S, AND SAN DIEGO GAS & ELECTRIC COMPANY'S LONG-TERM PROCUREMENT PLANS

Transmission Initiative (RETI),[109] a statewide initiative to help identify the transmission projects needed to accommodate our clean energy goals, support future energy policy, and facilitate transmission corridor designation and transmission and generation siting and permitting. Because RETI begins with a thorough assessment of the renewable resource potential in California and neighboring regions, the output from RETI will be a critical input for the renewable procurement sections of the IOUs' future LTPPs. The Commission thus encourages the IOUs and all other interested parties to participate fully in RETI as a means of addressing both transmission and procurement shortages in the renewable energy sector.

The IOUs mention a shortage of renewable sources as another barrier to achieving renewable portfolio targets. The Commission recognizes that, in the short term, transmission shortages present a challenge to procuring renewable energy. The Commission notes, however, that the IOUs have dozens of RPS contracts in the pipeline, that the response to the IOUs' RPS solicitations has increased dramatically, that much new transmission for renewables is already under consideration at the Commission, and that more needed transmission will be identified by RETI. This shortage may therefore be relieved in the longer term, provided other project development challenges can be overcome. Beyond lack of transmission capacity, oft-cited reasons for project delay include project permitting, site control, and interconnection delays associated with the CAISO queue process. The Commission is working with the relevant state and federal

[109] http://www.energy.ca.gov/reti/index.html

solicitations, in all cases, if an IOU proposes a UOG outside of a competitive RFO, the IOU must make a showing that holding a competitive RFO is infeasible:

- Market Power Mitigation – the IOU must make a strong showing that as a result of some attribute of the desired resource, a private owner would have the ability to exert significant influence over the price of its development or of the price and quantity of its output (energy, capacity, or ancillary services);

- Preferred Resources[240] – while we continue to rely on markets to deliver efficiently priced products for ratepayers, we see no reason to limit our options and intend to continue to deploy all resources available to us, including utility development and ownership, to meet California's vital environmental policy objectives;

- Expansion of Existing Facilities – we can envision certain unique circumstances in which ratepayers would benefit from development on or expansion of an existing IOU asset that would not lend itself to the PPA project structure, but the IOU would need to make a strong showing that such development were clearly preferable to a resource that could be obtained via a competitive solicitation that would not necessarily result in utility ownership;

[240] As noted in Section 1.1, preferred resources in order of preference are energy efficiency, demand response, renewables, distributed generation and clean fossil-fuel. However, a utility may only develop a clean fossil-fuel UOG outside of the RFO process if it utilizes an advanced or emerging technology that the market is unlikely to develop.

EXHIBIT 10

Mailed 12/20/2004

Decision 04-12-048 December 16, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning.	Rulemaking 04-04-003 (Filed April 1, 2004)

OPINION ADOPTING PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY'S LONG-TERM PROCUREMENT PLANS

OPINION ADOPTING PACIFIC GAS AND ELECTRIC COMPANY, SOUTHERN CALIFORNIA EDISON COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY'S LONG-TERM PROCUREMENT PLANS

I. Summary

This decision adopts, with modifications, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company's (SDG&E) Long-Term Procurement Plans (LTPP) and provides direction to the utilities on the procurement of the resources identified in the LTPPs. Summaries of the LTPPs are provided as Attachment A.

In our direction to the Investor-Owned Utilities (IOUs) [PG&E, SCE and SDG&E] regarding the procurement of resources to meet identified needs, and in recognition of the substantial amount of procurement to be undertaken as a result of our resource adequacy decisions, we make a number of significant findings. First, following the "loading order" contained in the Joint Agency Energy Action Plan (EAP) is the highest priority, meaning that energy efficiency and demand-side resources should be employed first. When these opportunities are captured, renewable generation is to be procured to the fullest extent possible – whenever an IOU issues a Request for Offer/Proposal (RFO/RFP) for generation resources, it must justify its selection of fossil generation over renewable generation offers. In other words, selection of renewable generation is the rebuttable presumption guiding IOU generation procurement.

We have extended the IOUs' procurement on a rolling 10-year basis. We will diligently oversee how the utilities are using this authority. We authorize the utilities to enter into short-term, mid-term, and long-term contracts, with contract delivery start dates through 2014, provided that the IOUs submit the necessary compliance filings. Furthermore, we have determined that it is time to

allow greater head-to-head competition and hereby lift the affiliate ban on long-term power products. Accordingly, we adopt certain guidelines and safeguards, including an independent third party evaluator (IE) requirement. We will allow the consideration of debt equivalence in the bid evaluation process as specified herein, and we will also require the use of a greenhouse gas (GHG) adder as a bid evaluation component. With these policies we continue to shape and define the hybrid power market in California so as to advance the positive benefits of competition and deliver California's energy services according to the priorities of state policy.

In general, IOUs are directed to procure the maximum feasible amount of renewable energy in the general solicitations authorized by this decision, and we will allow them to credit this procurement towards their Renewables Portfolio Standards (RPS) targets. This is in keeping with the Legislature's clear intent, in creating the RPS program, that renewable procurement be integrated as closely as possible with general IOU procurement practices. To further this effort, we will be working over the course of the next LTPP cycle to fully imbed the RPS into long-term planning, placing renewable energy development where it belongs - central to the IOUs' resource planning efforts. Development of the RPS program will continue in the interim as a high priority for this Commission, and the IOUs will be prepared to issue RPS solicitations in 2005.

To further the state's clear goal of promoting environmentally responsible energy generation, we also adopt a policy that reflects and attempts to mitigate the impact of GHG emissions in influencing global climate patterns. As described in this decision, the IOUs are to employ a "GHG adder" when evaluating fossil and renewable generation bids. This method, which will be refined in future proceedings, will serve to internalize the significant and under-recognized cost of

EXHIBIT 11

Rulemaking 01-10-024

Exhibit No. _____

Witness: William Monsen

Commissioner: Michael Peevey

ALJ: Peter V. Allen

DIRECT TESTIMONY OF WILLIAM A. MONSEN REGARDING LONG-TERM RESOURCE PLANNING ISSUES ON BEHALF OF THE CITY OF SAN DIEGO

Rulemaking 01-10-024

June 23, 2003

witness Anderson goes so far as to say that the Balanced Portfolio "… is the lowest risk plan…."[2] The SDG&E plan, however, is centered on several potentially risky assumptions:

- The timely permitting and construction of a very controversial high voltage transmission line from the northern part of the SDG&E service territory to the southern part of the Southern California Edison service territory (i.e., Valley-Rainbow). If this transmission line is not completed in the timeframe anticipated by SDG&E and additional in-area generation is not constructed because of the expectation that Valley-Rainbow would be completed, then the customers in SDG&E's service territory could face power shortages, higher prices for power, or other economic harm.

- Insufficient reliance on and financial support for the development of low-risk, in-area renewable power projects, distributed generation resources, and gas-fired central station power projects and over-reliance on additional purchases of power from out-of-area generators, including a coal plant, which have to be delivered to SDG&E via the as-yet unapproved Valley-Rainbow transmission line.

- The proposed implementation by SDG&E of very high levels of energy efficiency and demand response programs. SDG&E's approach to this expansion of its energy efficiency program is to request the Commission to give SDG&E full rights to devise, shape, and administer all of the programs, since SDG&E contends that a fragmented approach involving third party administrators "… will not work." [3]

- Reliance in the near-term on a solicitation to purchase power from generators located within the SDG&E local load pocket that may have been structured in such a way as to exclude the only major gas-fired, combined cycle power plant that currently has its permits from the California Energy Commission (i.e., Calpine's Otay Mesa plant). In addition, SDG&E's proposed solicitation could conceivably result in an affiliate of SDG&E being the winning bidder, should the Palomar Power Project be selected as the winning bidder in the solicitation, since the Palomar project is being developed by SDG&E's unregulated affiliate, Sempra Energy Resources.[4]

A number of public agencies in the San Diego area and the Utility Consumers Action Network (UCAN) commissioned a joint study in 2002 of the needs for new energy

[2] SDG&E Testimony (Anderson), p. 12.
[3] SDG&E Testimony (Smith), p. 9.
[4] It is unclear how SDG&E's solicitation interacts with the Commission's apparent ban on utilities procuring power from affiliates in D.02-10-062, p.50.

EXHIBIT 12

San Diego Regional Energy Infrastructure Study

December 30, 2002

Prepared for:

The County of San Diego
The San Diego Regional Energy Office
The City of San Diego
The Utility Consumers Action Network
The San Diego County Water Authority
The San Diego Association of Governments
And
The Port of San Diego

Prepared by:

Science Applications International Corporation

  - There will likely be significant political maneuverings among the California agencies, the Western states and the federal government—notably the Federal Energy Regulatory Commission (FERC)—on market design. The region needs to be active in shaping this discussion and outcome on market design. The region should also leverage the use of regional core competencies and capabilities in shaping its own regional energy supply capability as embodied by the City and County of San Diego, the Port of San Diego the San Diego County Water Authority, the San Diego Association of Governments and its Regional Energy Office. SDG&E as the local distribution company also has an important role to play as does Sempra, CFE and merchant developers.

- **Creation of a more formal regional approach to energy planning, decision-making, and resource allocation.** The region should seriously consider the creation of an energy development authority to diversify ownership and moderate the market dynamics of energy assets serving San Diego County. This Authority could support the use of public capital for electric and natural gas supply projects and invest in large-scale energy efficiency, distributed generation and clean energy resources. In addition, new merchant generation and transmission projects will be identified in states outside California, which have the potential to serve the San Diego market. Every possible attempt should be made to consider entering into supply agreements or joint ventures with these projects if found to be cost effective, and contribute to market competition to stabilize or lower energy prices. This energy development authority should also cooperate with the Port of San Diego, the San Diego Water Authority and other agencies in considering current and potentially new asset development opportunities in the county to meet future supply requirements. The region needs to seriously consider the use of these public assets as a hedge against excessive reliance on merchant development and market-based development initiatives. This is especially critical considering that the California power contracts as recently renegotiated still remain above market prices and current rates in San Diego County are among the highest in the nation.

- **A more comprehensive and coordinated approach to the evaluation of new energy assets**. This includes completing a comprehensive load flow evaluation regarding the location of new power plants and transmission lines. No new significant energy infrastructure projects should be developed until such an evaluation is completed. Trade-offs between new transmission and new generation plant investments in either North or South county locations should be evaluated.

- **Closer monitoring of regulatory proceedings, in particular, increased integration of SDG&E and SoCal gas planning, resource supply, and regional transmission pricing**. Greater monitoring of legislation and regulatory initiatives needs to be completed by the region and formal testimony and interaction in such proceedings is needed. This active engagement will be critical if the region embarks on its own energy supply and demand management strategy.

- **Explore strategies to reduce** natural gas transportation prices from the California border to San Diego. Regulatory decisions over the next 2 years can have a major impact on the delivered price of natural gas to the region. The region should also seek ways to obtain gas supplies from lower cost natural gas production regions.

- **Significant cost-effective distributed generation and renewable supplies exist and should be maximized, along with energy efficiency and demand response programs up to the avoided costs of the CDWR contracts.** These resources are good insurance against market perturbations and dysfunctions and protect against political risk and infrastructure failure.